

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LINDA Z. SPERBERG,

Civil No. 08-6139 (RHK/SRN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

VIJA BROWN,

Defendant.

Plaintiff commenced this action on November 25, 2008, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis, (“IFP”). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff’s submissions, and determined that her complaint failed to state an actionable claim for relief. Therefore, in an order dated December 1, 2008, (Docket No. 4), the Court informed Plaintiff that her IFP Application would “not be granted at this time.” That order gave Plaintiff an opportunity to file an amended complaint, and expressly advised her that if she did not file a new pleading by January 9, 2009, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for filing an amended complaint has now expired. To date, however, Plaintiff has not complied with the Court’s prior order, nor has she offered any excuse for her failure to do so. Indeed, Plaintiff has not communicated with the Court at all since she filed her complaint. Therefore, the Court will now recommend, in accordance with the prior order, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008)

(unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: February 2, 2009

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **February 17, 2009** a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.